IN THE HON'BLE CHHATTISGARH HIGH COURT AT

BILASPUR

W.P.NO.3467/2005 (S.B.)

PETITIONER

R. Narayanan, aged about 58 years, Son of Shri C. R. Nambiar, Working as Finance Officer, in Guru Ghasidas University, Bilaspur (C.G.).

**VERSUS**

RESPONDENTS

1. The State of Chhattisgarh, Through : The Secretary, Finance and Planning Department, Mantralaya Dau Kalyan Singh Bhawan, Raipur (C.G.).

2. The State of Chhattisgarh, Through : The Secretary, Department of Higher Education, Mantralaya Dau Kalyan Singh Bhawan, Raipur (C.G.).

3. Shri Guru Ghasidas University, Through: The Registrar, G.G.D. University, Koni, Bilaspur (C.G.).

4. Shri Amrit Lal Khuntel, Deputy Director, Directorate, Treasury, Accounts and Pension, Shankar Nagar, Raipur, (C.G.).

P.R.No. 3626/25
Presented by Shri Sashi Bhushan
28/8/25

Receiving
28/7/05
INCHARGE
Constitution Cases Section
Office of the Advocate General
State of Chhattisgarh
BILASPUR

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

01) PARTICULARS OF THE PETITIONER:

As mentioned in the cause title.

02) PARTICULARS OF THE RESPONDENTS:

As mentioned in the cause title.

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**मामला क्रमांक** W.P. No. 3467 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**29.07.2005**

Shri P.K.C. Tiwari, Sr. Advocate with Shashi Bhusan, counsel for the petitioner.

Shri Vivek Sharma, Panel Lawyer for the State on advance copy.

**I.A. No. 6577 of 2005:**

This is an application for urgent hearing.

The matter is taken up on Board. I.A. No. 6577 of 2005 for urgent hearing stands disposed of.

**W.P. No. 3467 of 2005:**

Heard Shri P.K.C. Tiwari, learned Sr. Advocate for the petitioner on admission.

By way of this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has prayed for issuance of suitable writ to quash the orders Annexures-P/1 & P/2 passed on 17th of June, 2005 and 25th of July, 2005. He has also prayed for issuance of suitable directions to extend the period of his deputation upto 28.07.2007 as desired by respondent No. 3.

The case of the petitioner is that he joined his service in the erstwhile State of Madhya Pradesh in the Local Fund, Audit Department under the control of Department of Finance in the year 1971. It appears from the order dated 22.03.2004 that the petitioner was sent on deputation on the post of Finance Officer in

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Guru Ghasidas University Bilaspur on 25.02.2004 for a period of one year. In consequence of the aforesaid order of deputation, the petitioner joined in the University and his period of deputation ended on 25.02.2005.

Thereafter, the impugned order dated 17.06.2005 (Annexure-P/1) was issued and the petitioner has been directed to be posted as Deputy Director, Regional Office, Bilaspur and another officer namely Amrit Lal Khuntel-respondent No. 4 has been posted in place of the petitioner from Raipur to Bilaspur.

Annexure-P/2 is memo dated 25.07.2005 which has been written by the Under Secretary (Awar Shachiv) of Finance Department to the Upper Chief Secretary (Awar Mukhya Shachiv), Higher Education Department in which it has been mentioned that the deputation period of the petitioner has already been elapsed and since the post held by the petitioner has been earmarked for State finance services, therefore, respondent No. 4, the State finance services officer, is being sent to the University in place of the petitioner. The Finance Department has requested by this letter that the administration of University may be directed to relieve the petitioner and to allow Shri Khuntel-respondent No. 4 to take his charges in place of the petitioner.

Learned counsel for the petitioner refers to the document Annexure-P/5 which is letter dated 16.02.2005 written by the

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Registrar of the University to the Secretary of the State (Finance Department) with a request to extend the period of deputation of the petitioner. He also refers to a letter dated 23rd February, 2005 (Annexure-P/6) written by the Vice-Chancellor of the University requesting for extension of the deputation of the petitioner by a period of two years i.e. up to February 28th, 2007. Learned counsel for the petitioner also refers to the document Annexure-P/7 which is a letter dated 06.07.2005 written by the Secretary of Governor to the Awar Mukhya Shachiv, State of Chhattisgarh, Higher Education Department in which a request has been made for extension of period of deputation on the basis of the letter issued by the Vice-Chancellor of the University to the said office.

Learned counsel for the petitioner submits that even after recommendation of the Governor, the impugned order was passed and the period of deputation was not extended. In light of the said letter he prays for quashing of the said order and directing extension of period of deputation of the petitioner.

I have heard, learned counsel for the petitioner at length and also perused the records of case filed along with writ petition.

The letters dated 16.02.2005 and 23.02.2005 are the two request letters from side of the University for extending the period of deputation. However, the letter dated 06.07.2005 which is written by the Secretary of the Governor, is a request for initiation

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of process for extension of period of deputation of the petitioner. It is important to mention this fact here that though this letter was issued on 06.07.2005 but this does not contain that orders of repatriation has already been passed on 17.06.2005. It appears that in fact, the letter has been written on the basis of request made by the Vice-Chancellor of the University which was written in the month of February, 2005, that is, just about the time of completion of the period of deputation of the petitioner.

In the opinion of this Court, the petitioner cannot take advantage of those letters or recommendations, issued by various authorities of the University because the same were just a request having no binding effect on the State in discharging of its function. It also appears that perhaps the factum of passing of order dated 17.06.2005 was not brought to the notice of Secretary of the Governor, otherwise instead of writing for taking steps for extension of the period of deputation, the letter for recommendation of cancellation of order of repatriation would have been issued.

Learned counsel for the petitioner draws the attention of this Court towards the provisions of Rule 5 of M.P. State University Service Rules, 1983. He argues that Clause (c) of sub-rule (1) of Rule 5 provides the Method of recruitment by deputation from the State Government or any organization other than the Universities as the Kuladhipati may deem fit. He submits that the Vice-

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Chancellor has also a role in the matter of appointment on deputation, therefore, the request or recommendations of Vice-Chancellor should be given due weightage and on this ground, the order Annexure-P/1 be set aside.

I have gone through the Rules referred to above. Rule 5 provides for Method of recruitment. It has been provided that without prejudice to the provisions of rule 7, recruitment to the Service after the commencement of these rules, shall be by the following methods, namely:-

*(a) by direct recruitment,*

*(b) by promotion of persons, holding a lower post which may or may not comprise the Service, to a higher post comprising the Service, and*

*(c) by deputation from the State Government or any organization other than the Universities as the Kuladhipati may deem fit.*

The provisions of sub-rule (1) clause (c) of Rule 5 are attracted in the matter of recruitment by deputation. If we deeply examine these provisions, then it would appear that the provisions of these rules specially Clause (c) of sub-rule (1) of Rule 5 shall be attracted in case when a fresh recruitment on deputation is being made. This is not the case of the petitioner that the recruitment of respondent No. 4 is being opposed by the Vice-Chancellor of the University or any other authority. The petitioner has only said that the Vice-Chancellor of the University has also recommended for

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extension of his period of deputation. This does not mean that the Vice-Chancellor has opposed the deputation of respondent No. 4. In the opinion of this Court, the petitioner, who is praying for quashing the order of repatriation and for extension of the period of deputation, cannot take advantage of these rules. These rules are not attracted in case of extension of period of deputation. This argument cannot be accepted and same is turned down.

It has been held by Hon'ble the Supreme Court in the matter of ***State of Punjab and others –vs- Inder Singh and others, reported in (1997) 8 SCC page 372,*** that 'concept of "deputation" is well understood in service law and has a recognized meaning. "Deputation" has a different connotation in service law. The dictionary meaning of the word "deputation" is of no help. In simple word, "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation, the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the recruitment rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority which controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and

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he would, therefore, know his rights and privileges in the deputation post.'

In my opinion, the petitioner being on deputation would be reverted back to his parent cadre atleast after completion of the period of deputation for which he was initially sent and he does not get any statutory or legally enforceable right to continue on the deputation or to claim for extension of the period of deputation on which he was sent to the University. ***(Please see (2000) 5 SCC page 362 (KUNAL NANDA –v- UNION OF INDIA AND ANOTHER)***

In the facts and circumstances of the case, I am not inclined to admit this writ petition for reliefs claimed therein. The petition has no merits and the same is dismissed at motion stage. There shall be no orders as to costs.

Consequently, M.W.P. No. 2934 of 2005 stands disposed of.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

vatti

9-6-05 22-8-05